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IN THE

# Supreme Court of the United States

October Term, 1964

No. 280

IRVING A. KANAREK,

*Petitioner,*

*vs.*

UNITED STATES OF AMERICA,

*Respondent.*

On Petition for a Writ of Certiorari to the United States Court of Claims.

## PETITION FOR REHEARING.

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## PETITION FOR REHEARING.

Petitioner prays that this Court grant rehearing of its order of October 12, 1964, denying the Petition for Writ of Certiorari, 379 U. S. ....., and that a Writ of Certiorari issue to review the judgment of the Court of Claims in the above entitled case as prayed for in both the timely Petition filed July 15, 1964, herein, and in Petitioner's timely Reply Brief.

### Reasons for Granting Rehearing and Issuing the Writ.

Only the Court of Claims may function as a trial court in connection with the claim in the instant case. A conflict in decisions between two, or among the several Courts of Appeal as to the EXTENT of damages

and/or CRITERIA for evaluation of damages in a case, such as the instant one, is not possible. The only review possible of a Court of Claims decision is one by this Court. No resort to a Court of Appeals lies. Petitioner's security clearance was not restored on September 21, 1955. He was not able even to return to work until April 9, 1956. Yet, notwithstanding the decisions of this Court, the Court of Claims has arbitrarily set September 21, 1955 as a terminal date for the evaluation of damages.

In *Schriber-Schroth v. Cleveland Trust Company,* (see 305 U. S. 47 at 50), this Court granted a Petition for Rehearing where a conflict of decisions between Courts of Appeal was improbable; *a fortiori,* this Court is exhorted to grant a rehearing in the instant case where conflict on the EXTENT of damage and/or CRITERIA for measuring extent of damage is impossible, not only improbable, since, as aforesaid, only the Court of Claims has power to try the instant case. Calamitous, vicious, and extensive damages have been inflicted upon petitioner, have continued for over ten years, and continue still, as a result of the unauthorized, arbitrary, and capricious withdrawal of security clearance.

The IMPOSSIBILITY of the existence of the above set-forth conflict, pertaining to the EXTENT of damages and/or CRITERIA to be used to evaluate damages constitutes substantial grounds which were available to Petitioner although they were not explicitly presented previously.

## Conclusion.

For the reasons set forth above, in the Petition for Writ of Certiorari, and in Petitioner's Reply Brief, it is respectfully urged that rehearing be granted and that, upon such rehearing, a Writ of Certiorari issue to the Court of Claims.

Respectfully submitted,

IRVING A. KANAREK,
*Counsel for Petitioner.*